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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/964,000	09/26/2001	William Younger Guess		3019

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EXAMINER

BECKER, DREW E

ART UNIT PAPER NUMBER

1761

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/964,000

Applicant(s)

GUESS, WILLIAM YOUNGER

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 and 21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-19 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 1 recites a "longitudinal slit-like aperture". It is not clear whether the aperture is located along the side of the food, or on the end of the food.
4. Claim 1 recites "encasing as a core element". It is not clear what the "core element" is.
5. Claim 10 recites "encasing as a core element" and "to receive therein". It is not clear what the "core element" is.
6. Claim 13 recites "encasing as a core element". It is not clear what the "core element" is.
7. Claim 13 recites "its". It is not clear what "it" is.
8. Claim 13 recites a "longitudinal aperture". It is not clear whether the aperture is located along the side of the food, or on the end of the food.
9. Claim 21 recites "encasing as a core element". It is not clear what the "core element" is.
10. Claim 21 recites a "longitudinal aperture". It is not clear whether the aperture is located along the side of the food, or on the end of the food.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1, 10, 13, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Lovell [Pat. No. 3,615,692].

Lovell teaches a food comprising a first elongate muscle mass (Figure 2, #5), a slit-like aperture (Figure 4, #35), and a second elongate muscle mass which inherently provided means to determine the boundary (Figure 4, #40; column 2, line 31).

13. Claim 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Bemis [Pat. No. 1,807,189].

Bemis teaches a stuffed food comprising a first elongate food (Figure 1, #1), a slit-like opening (Figure 1), meat stuffing (Figure 1, #3), and the meat being wrapped within a lettuce sheath (Figure 1, #2).

14. Claims 13 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Holbrook [Pat. No. 6,599,545].

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Holbrook teaches a food comprising a first elongate muscle mass (Figure 1, #14; column 3, line 14), an aperture (Figure 2, #26), and a second elongate muscle mass which inherently provided means to determine the boundary (Figure 9, #18; column 3, line 14).

15. Claim 21 is rejected under 35 U.S.C. 102(e) as being anticipated by Haig [Pat. No. 6,582,741].

Haig teaches a food comprising a first elongate food mass in the form of a pork loin (Figure 1, #25; column 2, line 20), a slit-like aperture (Figure 6), and a second elongate muscle mass which inherently provided means to determine the boundary (Figure 1, #23).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 1, 10, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haig in view of Holbrook.

Haig teaches a food comprising a first elongate food mass in the form of a pork loin (Figure 1, #25; column 2, line 20), a slit-like aperture (Figure 6), and a second elongate muscle mass which inherently provided means to determine the boundary (Figure 1, #23). Haig does not teach the second food being meat. Holbrook teaches a food

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comprising a first elongate muscle mass (Figure 1, #14; column 3, line 14), an aperture (Figure 2, #26), and a second elongate muscle mass which inherently provided means to determine the boundary (Figure 9, #18; column 3, line 14). It would have been obvious to one of ordinary skill in the art to incorporate the meat filling of Holbrook into the invention of Haig since both are directed to meat products, since Haig already included a food stuffing (Figure 1, #23), and since Holbrook teaches that meats were commonly stuffed with other meats (column 3, lines 10-21).

18. Claims 2-3, 11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haig, in view of Holbrook, as applied above, and further in view of Bemis.

Haig and Holbrook teach the above mentioned components. Haig and Holbrook do not teach vegetable sheet around the second food. Bemis teaches a stuffed food comprising a first elongate food (Figure 1, #1), a slit-like opening (Figure 1), meat stuffing (Figure 1, #3), and the meat being wrapped within a lettuce sheath (Figure 1, #2). It would have been obvious to one of ordinary skill in the art to incorporate the lettuce covering of Bemis into the invention of Haig, in view of Holbrook, since all are directed to food products, since Haig already included first and second foods (Figure 1, #23 & 25), and since the lettuce covering of Bemis would have provided a convenient means for inserting the second food of Haig.

19. Claims 4-8, 12, and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haig, in view of Holbrook and Bemis, as applied above, and further in view of Applicant's Admitted Prior Art [pages 1-3 of the specification].

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Haig, Bemis, and Holbrook teach the above mentioned components. Haig, Bemis, and Holbrook do not recite top loin, tenderloin, rib sections, longissimus dorsi, or psoas major. Applicant's Admitted Prior Art (AAPA) teaches that commonly used cuts of meat included top loin, tenderloin, rib sections, longissimus dorsi, or psoas major (pages 1-3 of the specification). It would have been obvious to one of ordinary skill in the art to use the above listed meats in the invention of Haig, in view of Holbrook and Bemis, since all are directed to food products, since Haig already include the use of pork loin (column 2, line 20), since Holbrook already included the use of meat for both the first and second foods (column 3, lines 10-21), and since these meats were all commonly used in the culinary arts.

20. Claims 9 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haig, in view of Holbrook and Bemis, as applied above, and further in view of Giuliano Bugialli's Techniques of Italian Cooking.

Haig, Bemis, and Holbrook teach the above mentioned components. Haig, Bemis, and Holbrook do not recite slicing into steaks. Giuliano Bugialli's Techniques of Italian Cooking teaches slicing a roast into steaks (page 287). It would have been obvious to one of ordinary skill in the art to incorporate the steak slicing of Bugialli into the invention of Haig since both are directed to food products, since Haig already included a pork loin roast (column 2, line 20), and since roasts were commonly sliced into steaks as shown by Bugialli (page 287).

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21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Waters [Pat. No. 1,381,526], Zolezzi et al [Pat. No. 3,031,310], and Anderson [Pat. No. 3,909,881] teach stuffed food products.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Thur. 8am-5pm and every other Fri. 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-0987.



Drew E Becker
Primary Examiner
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